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7 Attorneys for Petitioner
and Real Party in Interest

FILED
San Francisco County Superior Court
JUN 12 2019
CLERK OF THE COURT
By: *[Signature]*
Deputy Clerk

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9
10 COUNTY OF SAN FRANCISCO

11 DEAN R. GRAFILO, DIRECTOR OF THE
12 DEPARTMENT OF CONSUMER
AFFAIRS, STATE OF CALIFORNIA,

13 Plaintiff,

14 v.

15 KAISER FOUNDATION
16 HOSPITALS/THE PERMANENTE
MEDICAL GROUP

17 Respondent,

18 Case No. **CPF-19-516700**

19 DECLARATION OF INVESTIGATOR
MONICA PERETTO IN SUPPORT OF
PETITION FOR ORDER TO SHOW
CAUSE AND ORDER COMPELLING
COMPLIANCE WITH
INVESTIGATIONAL SUBPOENA

Date:

Time:

Dept: 302

Judge: Jon. Ethan P. Schulman

Trial Date:

Action Filed: June 12, 2019

20 KIMBERLY KIRCHMEYER,
21 EXECUTIVE DIRECTOR, MEDICAL
BOARD OF CALIFORNIA,

22 Real Party in Interest.

23 I, MONICA PERETTO, declare that the following matters are true and correct:

24 1. I am an Investigator with the California Department of Consumer Affairs, Division of
25 Investigation, Health Quality Investigation Unit (HQIU), which investigates complaints received
26 by the Medical Board of California (Board) and obtains the evidence necessary to determine
27

1 whether physicians are violating the Medical Practice Act and related laws relating to the practice
2 of medicine.

3 2. In 2017, the Board received complaints that school-aged children were obtaining
4 vaccination exemptions based upon medical conditions that did not appear to be valid.

5 3. On February 23, 2017, the Board received a complaint from the Assistant Chief of
6 Pediatrics at Kaiser, Roseville, reporting that a Kaiser patient was given an inappropriate vaccine
7 exemption letter by Dr. Mary Kelly Sutton. On March 28, 2017, the complainant submitted a
8 copy of a vaccine exemption letter, which stated that the child was a patient of Dr. Sutton's and
9 that the child was permanently exempted from all immunizations. Subsequently, the complainant
10 provided nearly identical additional vaccine exemptions issued by Dr. Sutton to other school-
11 aged children, including letters dated April 5, 2017, August 14, 2018, and October 12, 2018.
12

13 4. On February 15, 2019, I served an investigational subpoena on The Permanate
14 Medical Group (TPMG). The subpoena required TPMG to provide unredacted copies of the
15 exemptions, as well as information identifying any other Kaiser pediatric patients who received
16 vaccine exemptions from Dr. Sutton, and their parents.

17 5. On April 4, 2019, counsel for TPMG advised that the subpoenaed information would
18 be provided, if the Board first obtained a court order compelling its release.

19 6. On May 31, 2019, the complaint and vaccine exemptions were reviewed by James
20 Nuovo, M.D., who is a medical consultant to the Board. Dr. Nuovo advised that there was
21 insufficient evidence that Dr. Sutton performed a good faith evaluation of the children and that
22 further investigation was necessary to determine whether or not Dr. Sutton was violating the laws
23 relating to physicians and vaccine exemptions.

24 7. Attached to this declaration are true and correct copies of the following documents:

25 A. Complaint dated February 23, 2017 (redacted);
26

- 1 B. Vaccine exemption letters dated February 6, 2017, April 5, 2017, August 14, 2018,
2 and October 12, 2018 (redacted);
3 C. Investigational subpoena, dated March 10, 2019;
4 D. Letter dated April 4, 2019 from attorney Tom Freeman.

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7 Executed under penalty of perjury on June 6, 2019, at Sacramento, California.

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MONICA PERETTO

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ATTACHMENT A

Online Complaint Summary

2/23/17 12:14 PM

Page 1 of 3

Board: **Medical Board of California**
License Type: **Physician's and Surgeon's**
Complaint Number: **8002017030405**
Incident Date: **02/06/2017**

Description:

My name is Wendy Cerny and I am a Pediatrician at Kaiser Permanente in Roseville California. I'm the Assistant Chief at my clinic and one of my pediatricians brought to my attention that one of his new patients' mother requested that he sign a "Medical Exemption to Required Immunizations" form for her two children. She had already gotten an exemption form signed for the older child before coming to Kaiser, and wanted to get one for each of her two older children.

My colleague looked at the form she already had for the older child and saw that this doctor: Mary Kelly Sutton MD, had signed a form for [REDACTED] to have a lifelong medical exemption from all vaccines. She wrote on the form that the exemption was based on the child having "a personal history of genetic defect, neurologic vulnerability, and allergy, and family history of vaccine reaction, allergy, and neurologic and autoimmune disease". However, this patient actually does not have a history or family history of any of those things and he and his two younger siblings also don't in fact have a medical condition that would be an indication for exemption to being vaccinated. When my colleague told the mother he would not sign exemption forms for her two younger children as she asked, she replied that she would just go back to this office to obtain such exemptions.

My colleague and I looked at the website for this doctor:

vaccinecommonsense.com/category/doctors/dr-kelly-sutton and were very disturbed by it and the specials she runs on giving the exemptions at a low price. Exemptions are featured in the website.

We feel this doctor and perhaps her colleagues in this medical group (Raphael Medicine & Therapies PC) are making easy money on these exemptions that are not based on true medical need and are actually putting children and other people in the community at risk for contracting and spreading serious infectious diseases. As a pediatrician for over 18 years, I have seen an increase in people refusing vaccines for their children, and with doctors encouraging parents to not vaccinate, they are going against medical evidence and indirectly causing harm.

Respondent

License Type: **Physician's and Surgeon's**
First Name: **MaryKelly**
Last Name: **Sutton**
Address: **9801 Fair Oaks Blvd**
Fair Oaks, CA
95628
US

Phone Number: **916-671-1780**

Extension:

E-mail Address: **[REDACTED]**

Complainant

First Name: **Wendy**
Second Name: **Marie**
Last Name: **Cerny**
Gender: **F**
Address: **1840 Sierra Gardens Dr**
Roseville, CA
US
Phone Number: **916-787-6449**
Extension:
E-mail Address: **wendy.m.cerny@kp.org**

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ATTACHMENT B

Mary Kelly Sutton MD
Raphael Medicine & Therapies PC
9801 Fair Oaks Blvd #300
Fair Oaks, California 95628
Ph: (916) 671-1780 Fax: (916) 844-0083
CA LICENSE # G076932

February 6, 2017

To whom it may concern:

My patient [REDACTED] is medically exempt from all vaccines on a permanent basis, due to personal history of genetic defect, neurologic vulnerability, and allergy, and family history of vaccine reaction, allergy, and neurologic and autoimmune disease.

This includes vaccination against diphtheria, hepatitis B, hemophilus influenza type B, measles, mumps, pertussis, poliomyelitis, rubella, tetanus, varicella, pneumococcus, meningococcus, flu and human papilloma virus. The exemption is for all vaccines including those not mentioned here. Vaccination constitutes a greater risk than benefit for this individual.

Sincerely,



M. Kelly Sutton MD

CONFIDENTIALITY NOTICE TO THE SCHOOL

This document is a private and confidential record of the patient/student named above. This document is protected from disclosure by applicable laws, including but not limited to the Health Insurance Portability and Accountability Act (HIPPA) and the Family Educational Rights and Privacy Act (FERPA). Further, pursuant to Cal. Health & Safety Code section 120440 and other applicable student/patient privacy laws, this child's guardian(s) does not consent to outside sharing or 3rd party sharing of the child's vaccination or exemption record.

Raphael Medicine & Therapies

Medical Exemption to Required Immunizations

Optional Form for Licensed Physicians (MD or DO only)

STUDENT NAME (Last, First, Middle) [REDACTED]

DATE OF BIRTH [REDACTED]

Exemption Due to Physical Condition or Medical Circumstance

I certify that the child has a physical condition or medical circumstance such that immunization otherwise required for admission to school, child care center, day nursery, nursery school, family day care home, or development center in California is not considered safe. I understand that, for the protection of the child and other students, the child may be excluded from attending school for prolonged periods during outbreaks or exposure to disease for which immunization has not been completed. (17 CCR §6060).

Immunizations included in Exemption:

Immunization	Duration of physical condition or medical circumstance	
<input checked="" type="checkbox"/> Polio	<input type="checkbox"/> Temporary until date: _____	<input checked="" type="checkbox"/> Permanent
<input checked="" type="checkbox"/> DTaP	<input type="checkbox"/> Temporary until date: _____	<input checked="" type="checkbox"/> Permanent
<input checked="" type="checkbox"/> MMR	<input type="checkbox"/> Temporary until date: _____	<input checked="" type="checkbox"/> Permanent
<input checked="" type="checkbox"/> HIB	<input type="checkbox"/> Temporary until date: _____	<input checked="" type="checkbox"/> Permanent
<input checked="" type="checkbox"/> Hepatitis B	<input type="checkbox"/> Temporary until date: _____	<input checked="" type="checkbox"/> Permanent
<input checked="" type="checkbox"/> Varicella	<input type="checkbox"/> Temporary until date: _____	<input checked="" type="checkbox"/> Permanent
<input checked="" type="checkbox"/> Tdap	<input type="checkbox"/> Temporary until date: _____	<input checked="" type="checkbox"/> Permanent

Comments or additional information:

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Licensed physician's name, address, and telephone number:

Raphael Medicine & Therapies PC
9801 Fair Oaks Blvd., Suite 300
Fair Oaks, CA 95628
916-671-1780

Signature: M K Sutton MD, DO

License Number: G76932

Date: 2/6/17

American Academy of Pediatrics
DEDICATED TO THE HEALTH OF ALL CHILDREN
American Academy of Pediatrics, California

CALIFORNIA ACADEMY OF
FAMILY PHYSICIANS
STRONG MEDICINE FOR CALIFORNIA

Mary Kelly Sutton MD

Raphael Medicine & Therapies PC

9801 Fair Oaks Blvd #300 Fair Oaks, California 95628

Ph: (916) 671-1780 Fax: (916) 844-0083 CA LICENSE # G076932

October 12, 2018

To whom it may concern:

My patient [REDACTED] is medically exempt from all vaccines for six months (until April 12, 2019) due to personal history of neurologic disorder and suspected vaccine reaction, and family history of suspected vaccine reaction, allergy, and autoimmune and neurologic disease.

This includes vaccination against diphtheria, hepatitis B, hemophilus influenza type B, measles, mumps, pertussis, poliomyelitis, rubella, tetanus, varicella, pneumococcus, meningococcus, flu and human papilloma virus. The exemption is for all vaccines including those not mentioned here. Vaccination constitutes a greater risk than benefit for this individual.

Sincerely,



M. Kelly Sutton MD

CONFIDENTIALITY NOTICE TO THE SCHOOL

This document is a private and confidential record of the patient/student named above. This document is protected from disclosure by applicable laws, including but not limited to the Health Insurance Portability and Accountability Act (HIPAA) and the Family Educational Rights and Privacy Act (FERPA). Further, pursuant to Cal. Health & Safety Code section 120440 and other applicable student/patient privacy laws, this child's guardian(s) does not consent to outside sharing or 3rd party sharing of the child's vaccination or exemption record.

RAPHAEL MEDICINE & THERAPIES PC

Mary Kelly Sutton MD
Raphael Medicine & Therapies PC
9801 Fair Oaks Blvd #300
Fair Oaks, California 95628
Ph: (916) 671-1780 Fax: (916) 844-0083
CA LICENSE # G076932

April 5, 2017

To whom it may concern:

My patient [REDACTED]

[REDACTED] medically exempt from all vaccines on a permanent basis, due to personal history of genetic defect and allergy, and family history of allergy, neurologic disease, and suspected vaccine reaction.

This includes vaccination against diphtheria, hepatitis B, hemophilus influenza type B, measles, mumps, pertussis, poliomyelitis, rubella, tetanus, varicella, pneumococcus, meningococcus, flu and human papilloma virus. The exemption is for all vaccines including those not mentioned here. Vaccination constitutes a greater risk than benefit for this individual.

Sincerely,

M. Kelly Sutton MD

M. Kelly Sutton MD

CONFIDENTIALITY NOTICE TO THE SCHOOL

This document is a private and confidential record of the patient/student named above. This document is protected from disclosure by applicable laws, including but not limited to the Health Insurance Portability and Accountability Act (HIPPA) and the Family Educational Rights and Privacy Act (FERPA). Further, pursuant to Cal. Health & Safety Code section 120440 and other applicable student/patient privacy laws, this child's guardian(s) does not consent to outside sharing or 3rd party sharing of the child's vaccination or exemption record.

CONFIDENTIAL

Name: [REDACTED]
MRN: 1002623 DOB: 2/27/13
Dept: ROS-PEDC > SIERRA GARD
Prov: CHOU, STEVE HUANG (M.D.)
Appt Date: 9/5/2018 Prov ID: 63440

Raphael Medicine & Therapies

Mary Kelly Sutton MD

Raphael Medicine & Therapies PC

9801 Fair Oaks Blvd #300 Fair Oaks, California 95628

Ph: (916) 671-1780 Fax: (916) 844-0083 CA LICENSE # G076932

August 14, 2018

To whom it may concern:

CONFIDENTIAL

My patient [REDACTED] is medically exempt from all vaccines on a permanent basis due to personal history of genetic defect and allergy, and family history of allergy, autoimmune and neurologic disease, and suspected vaccine reaction.

This includes vaccination against diphtheria, hepatitis B, hemophilus influenza type B, measles, mumps, pertussis, poliomyelitis, rubella, tetanus, varicella, pneumococcus, meningococcus, flu and human papilloma virus. The exemption is for all vaccines including those not mentioned here. Vaccination constitutes a greater risk than benefit for this individual.

Sincerely,



M. Kelly Sutton MD

CONFIDENTIALITY NOTICE TO THE SCHOOL

This document is a private and confidential record of the patient/student named above. This document is protected from disclosure by applicable laws, including but not limited to the Health Insurance Portability and Accountability Act (HIPAA) and the Family Educational Rights and Privacy Act (FERPA). Further, pursuant to Cal. Health & Safety Code section 120440 and other applicable student/patient privacy laws, this patient / parent does not consent to outside sharing or 3rd party sharing of the patient/student's vaccination or exemption record.

RAPHAEL MEDICINE & THERAPIES PC

ATTACHMENT C

**DIVISION OF INVESTIGATION
HEALTH QUALITY INVESTIGATION
DECLARATION OF SERVICE**

Case Name: Sutton, Mary, MD

Case No: 8002017030405

I declare that I am employed by the Division of Investigation in the County of Sacramento, California. I am over the age of eighteen years, and my business address is:

2535 Capitol Oaks Drive, Suite 220, Sacramento, CA 95833

On 2/15/19, I served the attached (indicate all that apply):

- Letter to patient Requesting Medical Release (ENF-20A) with Consumer Information About Release of Medical Information (ENF 21)
- Letter to patient Re: Subpoena for Medical Records with Notice to Consumer and Objection (ENF-20B) and copy of Investigational Subpoena Duces Tecum
- Letter to patient advising DOI has received their medical records (ENF-20C) (includes ENF-20C Attachment – *Consumer Information about Release of Medical Records in Possession of DOI*)
- Authorization for Release of Medical Information (ENF-27A)
- Authorization for Release of Alcohol and Drug Abuse Information (ENF-27B)
- Authorization for Release of Psychiatric Information (ENF-27C)
- Authorization for Release of HIV/AIDS Medical Information (ENF-27D)
- Medical Records Request Compliance Advisory (ENF-31)
- Declaration of Custodian of Records (ENF-22)
- Investigational Subpoena Duces Tecum
- Investigational Subpoena to Appear and Testify
- Administrative Hearing Subpoena
- Other (list): _____

EMAIL By personal delivery and service of a true copy thereof to ZENNIE COUGHLIN
at the following address: ZENNIE.COUGHLIN@KP.ORG

By placing a true copy thereof, along with a cover letter, a copy of which is also attached, Enclosed in a sealed envelope with postage fully prepaid, by Certified Mail, in the United States mail at _____, California, to _____

At the last known address. Certified Mail No.: _____

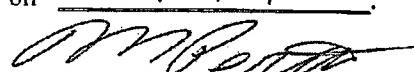
Courtesy copy to: _____

I declare under penalty of perjury the foregoing is true and correct, and this declaration was executed at

Sacramento _____, California, on 2/15/19

Monica Peretto _____

(Printed Name)



(Signature)



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR GAVIN NEWSOM

DIVISION OF INVESTIGATION

Health Quality Investigation Unit
2535 Capitol Oaks Drive, Suite 220
Sacramento, CA 95833
Phone: (916) 263-2585 - Fax: (916) 263-2591



RECORDS REQUEST COMPLIANCE ADVISORY

February 15, 2019

The Permanente Medical Group
Legal Department
1950 Franklin Street, 17th Floor
Oakland, CA 94612
ATTN: Zennie Coughlin

Dear Ms. Coughlin,

The Division of Investigation is a regulatory law enforcement agency requesting documentation for confidential review. In accordance with the enclosed Investigational Subpoena Duces Tecum, please forward a certified copy of the complete requested documentation, to my attention at the above address by March 18, 2019. Please complete the Declaration of Custodian of Records and return it with the complete documentation.

If you have any questions regarding this request, please contact me at (916) 263-2529, in time to ensure receipt of the complete records prior to the due date listed above. Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Monica Peretto'.

Monica Peretto
Senior Investigator
8002017030405

Enclosures: Investigational Subpoena Duces Tecum
Declaration of Custodian of Records
Notice and Acknowledgement of Investigational Subpoena

**BEFORE THE DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

4 In the Matter of the Investigation of:)
5 Sutton, Mary K., M.D.) INVESTIGATIONAL SUBPOENA
6 Case Number 8002017030405) DUCES TECUM TO PRODUCE
7 To: The Permanente Medical Group) PAPERS AND DOCUMENTS
8 Legal Department)
9 Zennie Coughlin)
10 1950 Franklin Street, 17th Floor)
11 Oakland, CA 94612)

This subpoena ducés tecum is issued pursuant to the powers conferred upon the Director of the Department of Consumer Affairs (DCA) of the State of California as head of the DCA by Sections 11180 through 11191 of the Government Code of California, which powers have been delegated by the Director under Section 7 of the Government Code to Supervising Investigator II Andrew Hegelein of DCA's Division of Investigation, Health Quality Investigation Unit. Pursuant to the federal Health Insurance Portability and Accountability Act (HIPAA), a covered entity is permitted to release protected health information and records to DCA because DCA is a health oversight agency under HIPAA. (45 C.F.R. § 164.512.)

YOU ARE HEREBY COMMANDED to appear before Investigator Monica Peretto and/or any other duly authorized representative(s) of the Division of Investigation, Health Quality Investigation Unit staff, at 2535 Capitol Oaks Drive, Suite 220, Sacramento, California 95833, telephone number (916) 263-2529 on the 18TH day of MARCH, 2019, at the hour of 8:00 a.m., then and there to testify and to answer questions propounded to you in connection with the above titled investigation and to bring with you, and there produce, any and all writings as defined by Evidence Code section 250, including but not limited to, all the papers, books, accounts, documents and records described in **the attached list**, regardless of the form in which they are kept, and including all electronic or digital forms of records.

For purposes of this subpoena, all references to records and documentation includes, but is not limited to, production of minutes, notes, electronic communications, audio and video recordings, reports, findings, recommendations or evaluations, taken during any formal or informal conferences, discussions or meetings.

For failure to comply with the commands of this subpoena, you will be subject to the proceedings and penalties provided by law.

NOTICE: If you confirm with the above named investigator that the specific papers and documents commanded in this subpoena duces tecum, including a certified copy of the records and a completed "Declaration of Custodian of Records," are being delivered to the address listed above, then you DO NOT need to appear. If the records produced are not certified, you must personally appear on the date and time indicated. If this subpoena requires production of a consumer's records (including a patient's or employee's records):

- (1) The records are to be produced by the date and time specified in this subpoena (but not sooner than 20 days after the issuance of this subpoena, or 15 days after service, whichever date is later).
 - (2) If the identity of a consumer whose records are being compelled is known to the Division of Investigation, we have attempted to obtain a signed authorization for the release of the consumer records. At the time this subpoena is served, we are attempting to notify the consumer of our efforts to obtain their records through service of this subpoena. A copy of the Notice to Consumer, and a proof of service of that notice, are being provided with service of this subpoena.

If you have any questions, contact the above named investigator.

Given under my hand this 14 day of February, 2019.

Andrew Hegelein
Supervising Investigator II
Department of Consumer Affairs
Division of Investigation
Health Quality Investigation Unit

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ATTACHMENT A1
SUBPOENA FOR INFORMATION

Regarding the investigation of Mary Sutton, M.D., the following documents related to the above entitled investigation:

1. All submitted immunization exemption letters composed and/ or issued by Dr. Mary Sutton or Raphael Medicine and Therapies PC;
2. Full entity identity and contact information for those who were issued an immunization exemption letter by Dr. Mary Sutton or Raphael Medicine and Therapies PC, including but not limited to: name, date of birth, legal guardian, residential address, phone number for the following Kaiser Pediatric patients: [REDACTED]
[REDACTED],
[REDACTED]
3. Full entity/guardian identity and contact information for the prior listed Kaiser Pediatric patients, including but not limited to: name, date of birth, residential address, phone number;
4. Any and all documents related to immunization exemption letters composed and/or issued by Dr. Mary Sutton or Raphael Medicine and Therapies PC.



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DIVISION OF INVESTIGATION
Health Quality Investigation Unit
Sacramento Field Office
2535 Capitol Oaks Dr., Ste. 220
Sacramento, CA 95833
(916) 263-2585 Fax (916) 263-2591



Patient: _____ Record No.: _____
Business Facility: _____ Phone No.: _____
Address: _____ City/State: _____ Zip: _____

CERTIFICATION OF RECORDS

To the best of my knowledge, the copied documents, records and other things enclosed herewith were and are prepared and maintained in the ordinary course of business by authorized persons or personnel of this business or facility at or near the time of the acts, conditions or events described by such records. The enclosed records of the business or facility are a true copy of the following records described in the patient authorization or subpoena duces tecum (check only one):

- the complete records consisting of _____ pages;
- the complete records for the period beginning _____ and ending _____ only, consisting of _____ pages;
- the completed records, except that the business or facility does not have the following:

The copied records consist of _____ pages.

CERTIFICATION OF NO RECORDS

- A thorough search of our files carried out under my direction and control revealed that this business or facility does not have the records described in the patient authorization or the subpoena duces tecum.

DECLARATION OF CUSTODIAN OF RECORDS

I, the undersigned, am the duly authorized Custodian of Records of the above named business or facility. I am familiar with the mode of preparation of, and have the authority to certify, the business or facility records. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Print Name and Title

Signature

Date

NOTICE: A licensee that fails to provide the *certified* medical records within 15 days, or a health care facility within 30 days, of receipt of a request for certified medical records may constitute a violation of Section 2225.5 of the Medical Practice Act and may result in a civil penalty of \$1,000 per day for each day that the documents have not been produced. "Certified medical records" is defined as "a copy of the patient's medical records authenticated by the licensee or health care facility, as appropriate, on a form prescribed by the board."

DOI CASE NO. 8002017030405

**BEFORE THE DIVISION OF INVESTIGATION
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the matter of the Investigation of:

Mary Sutton, MD

Case Number 8002017030405

To: The Permanente Medical Group

Legal Department

1950 Franklin Street, 17th Floor

Oakland, CA 94612

ATTN: Zennie Coughlin

**NOTICE AND
ACKNOWLEDGEMENT OF
INVESTIGATIONAL SUBPOENA**

NOTICE

This Investigational Subpoena Duces Tecum is served pursuant to California Government Code §11184 and Code of Civil Procedure §415.30. Failure to complete this form and return it to the sender within 20 days may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a subpoena upon you in any other manner permitted by law. If you are served on behalf of a corporation, unincorporated association (including a partnership) or other entity, this form must be signed in the name of such entity by you or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of a subpoena. Section 415.30 provides that this subpoena is deemed served on the date of execution of an acknowledgment of receipt of subpoena.

Dated: February 15, 2019

ACKNOWLEDGMENT OF RECEIPT

This acknowledges receipt on _____, 20____ of a copy of the investigational subpoena.

Signature

Printed Name

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BEFORE THE DIVISION OF INVESTIGATION
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the matter of the Investigation of:

Mary Sutton, MD

Case Number 8002017030405

To: The Permanente Medical Group

Legal Department

1950 Franklin Street, 17th Floor

Oakland, CA 94612

ATTN: Zennie Coughlin

NOTICE AND
ACKNOWLEDGEMENT OF
INVESTIGATIONAL SUBPOENA

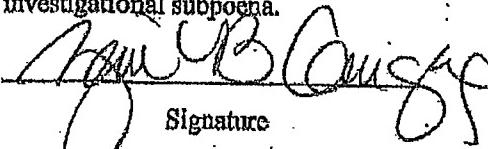
NOTICE

This Investigational Subpoena Duces Tecum is served pursuant to California Government Code §11184 and Code of Civil Procedure §415.30. Failure to complete this form and return it to the sender within 20 days may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a subpoena upon you in any other manner permitted by law. If you are served on behalf of a corporation, unincorporated association (including a partnership) or other entity, this form must be signed in the name of such entity by you or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of a subpoena. Section 415.30 provides that this subpoena is deemed served on the date of execution of an acknowledgment of receipt of subpoena.

Dated: February 15, 2019

ACKNOWLEDGMENT OF RECEIPT

This acknowledges receipt on April 11, 2019 of a copy of the investigational subpoena.

 Zennie Coughlin
Signature Printed Name

ATTACHMENT D

Marion's Inn LLP

Mark Palley
Thomas M. Freeman
Yvonne M. Pierrou

Latham Square
1611 Telegraph Ave., Suite 707
Oakland, California 94612-2145
www.marionsinn.com

Telephone
(510) 451-6770

Facsimile
(510) 451-1711

Denise Ngo
John A. Newton

RECEIVED

April 4, 2019

APR 08 2019

DOI / HQIU
SACRAMENTO

BY U.S. MAIL

Ms. Monica Peretto
Division of Investigation
Health Quality Investigation Unit
2535 Capitol Oaks Drive, Suite 220
Sacramento, CA 95833

RE: *In the matter of the investigation of: Mary Sutton*
Before The Department of Consumer Affairs Case No. 8002017030405

Dear Ms. Peretto,

I am attaching the response from The Permanente Medical Group, Inc. to the investigational subpoena recently served on ██████████ of the Permanente Medical Group, Inc. Our client is prepared to provide the names and the other information of its patients, as requested in the subpoena, if ordered to do so by a court and our client is prepared to stipulate to the issuance of such an order. Accordingly, please see the Response from TPMG to the SDT, and a draft stipulation and draft order for your consideration. Please feel free to call me or Denise Ngo if you have any questions. Thank you.

Sincerely,



Thomas M. Freeman